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General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

August 10, 2001.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44703, File No. 4-208]

Joint Industry Plan; Notice of Filing and Order Granting Temporary Effectiveness of Amendment to Plan Establishing Procedures Under Rule 11Ac-5

August 15, 2001.

Pursuant to section 11A(a)(3) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 11Aa3-2 thereunder,² notice is hereby given that on July 11, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the national market system plan establishing procedures under Rule 11Ac1-5 ("Joint-SRO Plan" or "Plan").³ The amendment proposes to add the CBOE as a participant to the Joint-SRO Plan. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed Joint-SRO Plan amendment, and to grant

temporary effectiveness to the proposed amendment through December 19, 2001.

I. Description and Purpose of the Amendment

The current participants to the Joint-SRO Plan are the American Stock Exchange LLC ("Amex"), Boston Stock Exchange, Inc. ("BSE"), Chicago Stock Exchange, Inc. ("CHX"), Cincinnati Stock Exchange, Inc. ("CSE"), National Association of Securities Dealers, Inc. ("NASD"), New York Stock Exchange, Inc. ("NYSE"), Pacific Exchange, Inc. ("PCX") and Philadelphia Stock Exchange, Inc. ("Phlx"). The proposed amendment would add the CBOE as a participant to the Joint-SRO Plan.

The CBOE has submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants. Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (i) Executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in Section 11(a) of the Plan and the new participant's single-digit code in Section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Joint-SRO Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed Joint-SRO Plan amendment that are filed with the Commission, and all written communications relating to the proposed Joint-SRO Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of the CBOE. All submissions should refer to File No. 4-208 and should be submitted by September 20, 2001.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Plan Amendment

After careful review, the Commission finds that the proposed Joint-SRO Plan amendment is consistent with the requirements of the Act and the rules and regulations thereunder.⁴ Specifically, the Commission believes that the proposed amendment, which permits the CBOE to become a participant to the Joint-SRO Plan, is consistent with the requirements of section 11A of the Act, and Rule 11Aa3-2 thereunder. The Plan establishes appropriate procedures for market centers to follow in making their monthly reports required pursuant to Rule 11Ac1-5, available to the public in a uniform, readily accessible, and usable electronic format. The proposed amendment to include the CBOE as a participant in the joint-SRO Plan will contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers.

The Commission finds good cause to grant temporary effectiveness to the proposed Joint-SRO Plan amendment, for 120 days, until December 19, 2001. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow the CBOE to become a participant in the Joint-SRO Plan. On August 1st, the CBOE started trading QQQ (an Amex-listed exchange-traded fund that frequently trades over 50 million shares a day). The CBOE represents that it intends to comply with Rule 11Ac1-5 for QQQ and for any other product currently subject to the Rule that the CBOE may trade pursuant to unlisted trading privileges ("UTP"). As a Plan participant, the CBOE would have timely information on the Plan procedures as they are formulated and modified by the participants. The Commission finds, therefore, that granting temporary effectiveness of the proposed Joint-SRO Plan amendment is appropriate and consistent with section 11A of the Act.⁵

⁴ In approving this proposed Joint-SRO Plan amendment, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78k-1.

¹ 15 U.S.C. 78k-1(a)(3).

² 17 CFR 240.11Aa3-2.

³ On April 12, 2001, the Commission approved a national market system plan for the purpose of establishing procedures for market centers to follow in making their monthly reports available to the public under Exchange Act Rule 11Ac1-5. See Securities Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814 (April 17, 2001).

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act⁶ and Rule 11Aa3-2 thereunder,⁷ that the proposed Joint-SRO Plan amendment is approved for 120 days, through December 19, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44702; File No. SR-Amex-2001-62]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC to Extend the eQPriority Pilot Program for Six Months

August 15, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on August 13, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

1. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for an additional six months Commentary .03 to Amex Rule 126 to continue a pilot program for processing electronically transmitted orders for the common stock of business corporations admitted to dealings on the Exchange ("eQPrioritysm"). The text of the proposed rule change is available at the Office of the Secretary of the Exchange and from the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 12, 2000, the Commission approved Amex's eQPriority initiative on a six-month pilot basis.³ The pilot program was extended for six months on March 6, 2001.⁴ Amex now seeks to extend the pilot for an additional six-month period.

eQPriority is intended to encourage persons to route marketable electronic orders to the Exchange by assuring them that orders sent to the specialist electronically will be filled either: (i) At the Amex Published Quote ("APQ") up to the displayed size at the time the order is announced, or (ii) at an improved price. Amex believes that the program provides orders for stocks sent to the floor electronically with the optimal combination of speed, certainty of execution, and price improvement opportunities. eQPriority applies only to orders for common stock admitted to dealings; it is not available for orders for options, Exchange Traded Funds, or other Amex-listed securities. It also does not apply to openings and reopenings and to block trades executed at a "clean-up" price pursuant to Amex Rule 155. The eQPriority pilot is scheduled to expire on September 12, 2001.

eQPriority works in the following manner. Once the specialist announces the electronic order, members may not withdraw or modify bids and offers incorporated into the APQ on the opposite side of the market from the incoming order *except* to provide price improvement. When an eQPriority order is executed in part at an improved price, the remainder of the order is executed at the APQ up to the number of shares then available (*i.e.*, the size of the APQ

at the time the order was announced, less any shares that provided price improvement). The eQPriority order does not have to match with any other trading interest on the same side of the market. In the event that an eQPriority order is larger than the APQ at the time the order is announced, the order is filled up to the size of the APQ according to the eQPriority procedures, and the unexecuted balance is filled according to the Exchange's customary auction market processes.

The purpose of eQPriority is to provide incoming electronic orders with an execution at the displayed offer (or lower) in the case of an electronic buy order, or at the displayed bid (or higher) in the case of an electronic sell order. eQPriority is not intended to allow an incoming electronic order to obtain priority over orders that already have established priority in the market. Thus, an eQPriority order does not have priority over bids and offers that were announced prior to the time that the eQPriority order is represented. This arises only in situations where the market is quoted at the minimum fractional variation and is best illustrated by an example. Assume the market is quoted 20.00 to 20.01, 5,000 by 5,000, and the bid represents a limit order on the book. Further assume that the specialist announces an eQPriority order to buy 1,000 and that a broker in the crowd is willing to sell 1,000 at 20. In this example, the limit order to buy on the book had established a bid of 20 prior to the representation of the eQPriority order. The booked limit order, consequently, would buy the 1,000 shares sold by the broker at 20, and the eQPriority order would be filled at 20.01.

2. Statutory Basis

Amex states that the proposed rule change is consistent with section 6(b) of the Act⁵ in general and furthers the objectives of section 6(b)(5)⁶ in particular in that it is designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Amex also states that the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers.

⁶ 15 U.S.C. 78k-1.

⁷ 17 CFR 240.11Aa3-2.

⁸ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 43284 (September 12, 2000), 65 FR 57410 (September 22, 2000).

⁴ See Securities Exchange Act Release No. 44049 (March 7, 2001), 66 FR 14947 (March 14, 2001).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).